IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

MONDAY THE NINTEENTH DAY OF JANUARY TWO THOUSAND AND FOUR

: PRESENT :

THE HON'BLE MR. DEVINDER GUPTA, CHIEF JUSTICE

AND

THE HON'BLE MS.JUSTICE: G. ROHINI

W.P. No.954 of 2004

Between:

M/s. Sri Ramakrishna Raw Rice Mill,
Rep. by its Managing Partner Nallamilli Krishna Reddy.

Petitioner

AND

1.The Union of India, rep. by its Secretary,
Finance & Planning Dept., New Delhi.
2.State Bank of India, Kakinada Main Branch,
Kakinada, E.G.District, rep. by its authorised officer. Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court will be pleased to issue a writ or order more particularly one in the nature of writ of Mandamus declaring the impugned Notice of Auction Sale dt.16-12-2003 issued by the 2nd respondent Bank under provisions of Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcements of Security Interest Act, as illegal, arbitrary violative of principles of natural justice and also violative of the basic principle of Rule of Law and fundamental rights guaranteed under Constitution of India and consequently set aside the impugned notice of auction sale dt.16-12-2003 as the said provisions of Sec.13 of the Act as ultra virus and unconstitutional.

The petition coming on for hearing, upon perusing the petition and the affidavit filed herein and upon hearing the arguments of Mr.Challa Dhanamjaya, Advocate for the Petitioner and of the Standing Counsel for Central Government for the Respondent No.1 and of Mr.K.Gopala Krishna Murthy, S.C. for S.B.I. for Respondent No.2.

The Court made the following ORDER:

"Learned Counsel for the petitioner submits that prior to the auction notice dated 16-12-2003, no notice was served upon the petitioner under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. On receipt of the said notice, petitioner submitted representation dated 17-1-2004 seeking extension of time for repayment of the amount till 31-3-2004. Banks has not adhered to the petitioner's request and has kept auction of the scheduled property for 20-1-2004.

Notice is accepted by Mr.K. Gopala Krishna Murthy for Respondent No.2.
List on 5-4-2004.

In the meanwhile, it is directed that auction may take place, but, the same will neither be confirmed nor petitioner will be deprived of the possession of the property. The order we have passed considering the petitioner's representation that he will clear the bank loan by 31-3-2004."

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To
1.The Secretary, Union of India, Finance & Planning Dept., New Delhi.
2.The Authorised Officer, State Bank of India, Kakinada Main Branch, Kakinada,
E.G.District.
3.One spare copy.

H.A.

DRAFTED BY : H.A.
COMPARED BY:

HIGH COURT

HCJ
&
RGJ

DATED : 19-01-2004

NOTE : LIST ON 5-4-04

ORDER :

W.P.NO.954/04

DIRECTION